

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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ANDREW J. R.,

Plaintiff,

5:18-CV-0018  
(CFH)

v.

NANCY A. BERRYHILL, ACTING  
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**APPEARANCES:**

Olinsky Law Group  
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Attorneys for plaintiff

Social Security Administration  
Office of Regional General Counsel,  
Region II  
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Attorneys for defendant

Social Security Administration  
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Attorneys for defendant

**OF COUNSEL:**

HOWARD D. OLINSKY, ESQ.

LORIE E. LUPKIN, ESQ.

LUCY WEILBRENNER, ESQ.

**ORDER<sup>1</sup>**

Plaintiff Andrew J. R. brings this action pursuant to 42 U.S.C. § 405(g) seeking

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<sup>1</sup> Parties consented to review of this matter by a Magistrate Judge pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, N.D.N.Y. Local Rule 72.2(b), and General Order 18. See Dkt. No.4

review of a decision by the Commissioner of Social Security ("Commissioner" or "defendant") denying his applications for supplemental security income benefits ("SSI") and disability insurance benefits. Dkt. No. 1 ("Compl."). Plaintiff moves for a finding of disability, and the Commissioner "requests remand of this case for further administrative proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g)." Dkt. Nos. 9, 13. The Commissioner contends that remand is needed "because the Commissioner improperly failed to consider Plaintiff's episodes of decompensation." Dkt. No. 13 at 1.

After review of the parties' filings, the Court finds that remand is appropriate. Accordingly, the matter will be remanded to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. 405(g) to allow for consideration of plaintiff's episodes of decompensation.

**WHEREFORE**, it is hereby

**ORDERED**, that plaintiff's Motion for Judgment on the Pleadings (Dkt. No. 9) is **GRANTED**, and the matter is **REVERSED** and **REMANDED** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

**IT IS SO ORDERED.**

Dated: February 21, 2019  
Albany, New York



Christian F. Hummel  
U.S. Magistrate Judge